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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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22801 7590 02/18/2010 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201				
EXAMINER ZHANG, SHIRLEY X				
ART UNIT		PAPER NUMBER		
2444				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

10/801,999

Applicant(s)

BOX ET AL.

Examiner

SHIRLEY X. ZHANG

Art Unit

2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

This final office action is prepared in response to the applicant's amendments and arguments filed on December 10, 2009 as a reply to the non-final office action mailed on June 16, 2009.

Claims 1-37 were pending in the previous office action;

No claim has been amended or cancelled;

Claims 1-37 are now pending;

Response to Affidavit under 37 C.F.R. § 1.132

Applicant filed a 37 C.F.R. 1.132 affidavit on December 10, 2009 to disqualify reference "Web Services Addressing (WS-Addressing)" by Abjanic et al. published March 13, 2003 as prior art reference by declaring that the inventors of the instant application is the sole inventor of the subject matter disclosed in the Abjanic et al. reference and the other authors of the reference article that are not named as inventors of the instant application were merely working under the direction of the said inventors.

Examiner considers the affidavit sufficient to overcome the grounds of rejections (35 U.S.C. 102(a) and 35 U.S.C. 103(a)) presented in the previous office action. Therefore, Examiner withdraws the previous grounds of rejections.

After an updated prior art search, Examiner has found references that can be relied on for new grounds of rejections to be presented below.

Accordingly, THIS ACTION IS MADE NON-FINAL.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 11-20, 30-34 and 35** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-patentable subject matter.

Claims 11 and 35 recites “computer readable medium.”

Paragraphs [0023] and [0024] of Applicant’s specification states the following:

“By way of example, and not limitation, *computer readable media* may comprise computer storage media and *communication media*.” and that “*Communication media typically embodies* computer readable instructions, data structures.”

Therefore, Applicant’s specification provides evidence that Applicant intends the “computer readable medium or media” to be directed to transitory communication media, which is non-patentable subject matter.

Claims 12-20 and 30 are dependent on claim 11, but fail to further limit the claimed invention to statutory subject matter. Therefore, claims 12-20 and 30 inherit the 35 U.S.C. 101 issue of the independent claim.

2. **Claims 31-34** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-patentable subject matter.

Claim 31 recites a computing device comprising “means for.”

According to claim 11 the “means” can be “computer-program instructions”, leading one to conclude that the computer device comprises only computer program.

While the claim is directed towards a device, the device is made up of only software, and as such, the device itself is directed towards software.

Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical “things”. They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program’s functionality to be realized.

MPEP 2601.1 Section I states, “Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program’s functionality, as nonstatutory functional descriptive material.”

Claims 32-34 are dependent on claim 31, but fail to further limit claim 31 to statutory subject matter, therefore inherit the 35 U.S.C. 101 issue of the independent claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1, 11, 21 and 31** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a transport neutral message comprising message recipient,"

It is unclear what "message recipient" entails. Applicant is advised to amend the claim to clarify the scope of "message recipient".

For the purpose of examination, Examiner will interpret "message recipient" to mean "the addressing information of a message recipient". However, as the terms can be interpreted in many other ways, Examiner reserves the right to interpret the terms differently in the course of the prosecution.

Claims 11, 21 and 31 are rejected based on the same rationale as claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 3-11, 13-21, 23-31 and 33-36** are rejected under 35 U.S.C. 102(e) as being anticipated by Abjanic (U.S. 6,732,175).

Regarding claims 1, 11, 21 and 31, Abjanic disclosed a method for, a computer readable medium comprising instructions for, a computer device for and a computing device comprising

means for open content model Web service messaging in a networked computing environment, the method comprising:

generating a transport neutral message (Abjanic, col. 5, lines 53-67 disclosed an XML message that is transport independent according to col. 5, lines 38-39) comprising message recipient (Abjanic, col. 5, line 44 and col. 6, lines 1-2, "URL"), endpoint addressing information (Abjanic, col. 5, line 61, "<To>bookstore.com</To>"), and one or more reference properties comprising selectively opaque message context (Abjanic, col. 5, lines 60-67);

binding the transport neutral message to a transport protocol for communication to the message recipient (Abjanic, col. 5, lines 30-36); and

wherein at least a portion of the selectively opaque message context is not directed to the message recipient (Abjanic, col. 3, lines 39-43 and col. 6, lines 39-67 disclosed that the director 145 in Fig. 1 parses all or part of the message and directs or switches the message to the intended processing node).

Further regarding claim 21, it is inherent in Abjanic that the web services are realized using a computing device that comprises a processor and a memory coupled to the processor, as the Web is a network of computing devices.

Regarding claims 3, 13, 23, and 33, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, 21 and 31 respectively.

Abjanic further disclosed that a portion of the selectively opaque context directs the message recipient as to how to handle one or more messages sent to the endpoint in a session (Abjanic, col. 6, lines 28-38 disclosed that the XML information provided within the message disclosed in col. 5, lines 60-67 is used by the director 145 to make routing decisions).

Regarding claims 4, 14, 24 and 34, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic disclosed that wherein the message recipient is a service coordinator (Abjanic, Fig. 1, "content-based message director 145").

Regarding claims 5, 15, and 25, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic further disclosed that the selectively opaque message context is based on an Extended Markup Language (XML) messaging protocol (Abjanic, col. 5, lines 60-67 disclosed an XML-formatted message content).

Regarding claims 7, 17, and 27, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic further disclosed that the addressing information and selectively opaque message context are respectfully specified by an endpoint reference (Abjanic, col. 5, lines 60-67 disclosed an XML message body comprising an endpoint reference and other content).

Regarding claims 8, 18, and 28, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic further disclosed that the endpoint reference is self-contained service endpoint description (Abjanic, col. 5, line 61, “<To>bookstore.com</To>” is self-contained).

Regarding claims 9, 19, and 29, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic further disclosed that the endpoint reference and/or message information headers provide identification and description of specific service instances and/or specific instance details (Abjanic, col. 5, lines 63-66 and col. 29-35 disclosed that the message body contains specific information about a business transaction such as a book order).

Regarding claim 35, Abjanic disclosed a computer-readable medium comprising an open content model data structure thereon, the open content model data structure comprising:
a message recipient data field (Abjanic, col. 5, line 44 and col. 6, lines 1-2, “URL”);

an endpoint addressing data field (Abjanic, col. 5, line 61, "<To>bookstore.com</To>");
and

one or more reference properties data fields comprising selectively opaque message context, at least a portion of the selectively opaque message context is not directed to the message recipient (Abjanic, col. 5, lines 60-67).

Claim 36 is similarly rejected as claim 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2, 6, 10, 12, 16, 20, 22, 26, 30, 32 and 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abjanic as applied to claims 1, 11, 21 and 31 above, in view of Bau et al. (U.S. 7,356,803, hereinafter "**Bau**").

Regarding claims 2, 12, 22, 32 and 37, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, 21 and 31 respectively.

Abjanic further disclosed that the selectively opaque context directs an endpoint to send one or more responses to a message source, the message source not being the message recipient .

However, in the same field of endeavor, Bau disclosed an XML based message protocol similar to Abjanic's, where the message includes the identifier of a client sending the message, i.e., a GUID or URL, that globally identifies the client such that the server can route the callback to the appropriate client. See also Bau, Fig. 4, "<c:defaultCallbackURL>"). The callback URL in Bau anticipates the "message source" in the current claims)

One of ordinary skill in the art would have been motivated to combine Abjanic and Bau because both disclosed a system and platform for switching Web services requests and response using a message director/dispatcher (Abjanic, Fig. 1, "message director 145"; Bau, Fig. 7, "dispatch 702 and 706"), where the switch decision is made based on not only the message header, but also information in the message body (Abjanic, col. 3, lines 39-43; Bau, col. 13, lines 5-8).

Therefore, it would have been obvious for one of ordinary skill in the art to incorporate Bau's teaching of defining a callbackURL in the request message into Abjanic's system with reasonable expectation of success. The combination would have allowed Abjanic's system to process request and response asynchronously, making it more applicable to a network with complex structure or unexpected latency.

Regarding claims 6, 16, and 26, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic did not explicitly disclose that in binding, the transport protocol is based on Simple Object Access Protocol (SOAP).

However, in the same field of endeavor, Bau disclosed a similar XML based message protocol that can be bound to SOAP (Bau, col. 8, lines 40-43 disclosed that service bindings include SOAP over HTTP).

The rationale for combining Abjanic and Bau is the same as that provided above for claims 2, 12 or 22.

Regarding claims 10, 20, and 30, Abjanic disclosed the method, the computer readable medium comprising instructions, the computer device and the computing device comprising means, as recited in claims 1, 11, and 21 respectively.

Abjanic did not explicitly disclose that the message information headers further comprise a reply to property identifying an intended recipient for a reply to the transport neutral message.

However, in the same field of endeavor, Bau disclosed an XML based message protocol similar to Abjanic's, where the message includes the identifier of a client sending the message, i.e., a GUID or URL, that globally identifies the client such that the server can route the callback to the appropriate client. See also Bau, Fig. 4, "<c:defaultCallbackURL>"). The callback URL in Bau anticipates the "Reply to" in the current claims).

The rationale for combining Abjanic and Bosworth is the same as that provided above for claims 2, 12 or 22.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHIRLEY X. ZHANG whose telephone number is (571)270-5012. The examiner can normally be reached on Monday through Friday 8:00am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S.X.Z./ Art Unit 2444
2/6/2010

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444